



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2010 REGULAR SESSION

HOUSE BILL NO. 545

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The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Allen

AN ACT relating to the Kentucky teachers' retirement system and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) (a) The "Kentucky Teachers' Retirement System insurance trust fund is hereby created." All assets received in the trust fund shall be deemed trust funds to be held and applied solely as provided in this section. Assets of the trust fund shall not be used for any other purpose and shall not be used to pay the claims of creditors or any individual, person, or employer participating in the Kentucky Teachers' Retirement System.

(b) The trust fund is intended to be established as a trust exempt from taxation under 26 U.S.C. sec. 115.

(2) The trust fund is created for the purpose of providing a trust separate from the funds under KRS 161.420. Trust fund assets are dedicated for use for health benefits as provided in KRS 161.675, and as permitted under 26 U.S.C. secs. 105 and 106, for present and future eligible recipients of a retirement allowance from the Kentucky Teachers' Retirement System.

(3) The trust fund shall be administered by the board of trustees established by KRS 161.250, and the board shall serve as trustees of the fund. The board shall manage the assets of the fund in the same general manner in which it administers the retirement funds, except that the asset allocation may differ and separate accounting and financial reporting shall be maintained for the trust fund.

(4) In addition to the requirements of subsection (2) of this section, the employers participating in the trust fund are limited to the Commonwealth, political subdivisions of the Commonwealth, and entities whose income is exempt from

1 taxation under 26 U.S.C. sec. 115. No other entity may participate in the trust
 2 fund.

3 (5) If the trust fund is terminated, the assets in the trust fund may revert, after the
 4 payment of all liabilities, to the participating employers as determined by the
 5 board of trustees.

6 (6) The board of trustees may promulgate administrative regulations and adopt
 7 procedures, and a trust document to implement this section and take all action
 8 necessary and appropriate to provide that the income of the trust fund shall not
 9 diminish or expand the rights of any recipients, employees, or dependents to
 10 health benefits.

11 (7) The establishment of the Kentucky Teachers' Retirement System insurance trust
 12 fund shall not diminish or expand the rights of any recipients, employees, or
 13 dependents to health benefits.

14 (8) The trust fund established under this section, at the direction of the board of
 15 trustees, shall consist of amounts, excluding those amounts that have been
 16 deposited to an account established pursuant to 26 U.S.C. sec. 401(h), that have
 17 been accumulated for the purpose of providing benefits as provided in KRS
 18 161.675, including:

19 (a) Contributions required under KRS 161.550; and

20 (b) Interest income from the investments of the fund from contributions
 21 received by the fund, and from income earned on those investments.

22 ➔Section 2. KRS 161.155 is amended to read as follows:

23 (1) As used in this section:

24 (a) "Teacher" shall mean any person for whom certification is required as a basis
 25 of employment in the common schools of the state;

26 (b) "Employee" shall mean any person, other than a teacher, employed in the
 27 public schools, whether on a full or part-time basis;

1 (c) "Immediate family" shall mean the teacher's or employee's spouse, children
 2 including stepchildren and foster children, grandchildren, daughters-in-law
 3 and sons-in law, brothers and sisters, parents and spouse's parents, and
 4 grandparents and spouse's grandparents, without reference to the location or
 5 residence of said relative, and any other blood relative who resides in the
 6 teacher's or employee's home;

7 (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by
 8 teachers or employees for use by teachers or employees who have exhausted
 9 all sick leave and other available paid leave days; and

10 (e) "Assault" shall mean an act that intentionally causes injury so significant that
 11 the victim is determined to be, by certification of a physician or surgeon duly
 12 qualified under KRS Chapter 342, incapable of performing the duties of his or
 13 her job.

14 (2) Each district board of education shall allow to each teacher and full-time employee
 15 in its common school system not less than ten (10) days of sick leave during each
 16 school year, without deduction of salary. Sick leave shall be granted to a teacher or
 17 employee if he or she presents a personal affidavit or a certificate of a physician
 18 stating that the teacher or employee was ill, that the teacher or employee was absent
 19 for the purpose of attending to a member of his or her immediate family who was
 20 ill, or for the purpose of mourning a member of his or her immediate family. The
 21 ten (10) days of sick leave granted in this subsection may be taken by a teacher or
 22 employee on any ten (10) days of the school year and shall be granted in addition to
 23 accumulated sick leave days that have been credited to the teacher or employee
 24 under the provisions of subsection (4) of this section.

25 (3) A school district shall coordinate among the income and benefits from workers'
 26 compensation, temporary disability retirement, and district payroll and benefits so
 27 that there is no loss of income or benefits to a teacher or employee for work time

1 lost because of an assault while performing the teacher's or employee's assigned
2 duties for a period of up to one (1) year after the assault. In the event a teacher or
3 employee suffers an assault while performing his or her assigned duties that results
4 in injuries that qualify the teacher or employee for workers' compensation benefits,
5 the district shall provide leave to the teacher or employee for up to one (1) year after
6 the assault with no loss of income or benefits under the following conditions:

7 (a) The district shall pay the salary of the teacher or employee between the time
8 of the assault and the time the teacher's or employee's workers' compensation
9 income benefits take effect, or the time the teacher or employee is certified to
10 return to work by a physician or surgeon duly qualified under KRS Chapter
11 342, whichever is sooner;

12 (b) The district shall pay, for up to one (1) year from the time of the assault, the
13 difference between the salary of the teacher or employee and any workers'
14 compensation income benefits received by the teacher or employee resulting
15 from the assault. Payments by the district shall include payments for
16 intermittent work time missed as a result of the assault during the one (1) year
17 period. If the teacher's or employee's workers' compensation income benefits
18 cease during the one (1) year period after the assault, the district shall also
19 cease to make payments under this paragraph;

20 (c) The Commonwealth, through the Kentucky Department of Education, shall
21 make the employer's health insurance contribution during the period that the
22 district makes payments under paragraphs (a) and (b) of this subsection;

23 (d) The Commonwealth, through the Kentucky Department of Education, shall
24 make the employer's contribution to the retirement system in which the
25 teacher or employee is a member during the period that the district makes
26 payments under paragraphs (a) and (b) of this subsection; and

27 (e) Payments to a teacher or employee under paragraphs (a) and (b) of this

1 subsection shall be coordinated with workers' compensation benefits under
2 KRS Chapter 342, disability retirement benefits for teachers under KRS
3 161.661 to 161.663, and disability retirement benefits for employees under
4 KRS 61.600 to 61.621 and 78.545 so that the teacher or employee receives
5 income equivalent to his or her full contracted salary, but in no event shall the
6 combined payments exceed one hundred percent (100%) of the teacher's or
7 employee's full contracted salary.

8 (4) Days of sick leave not taken by an employee or a teacher during any school year
9 shall accumulate without limitation and be credited to that employee or teacher.
10 Accumulated sick leave may be taken in any school year. Any district board of
11 education may, in its discretion, allow employees or teachers in its common school
12 system sick leave in excess of the number of days prescribed in this section and may
13 allow school district employees and teachers to use up to three (3) days' sick leave
14 per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated
15 sick leave days credited to an employee or a teacher shall remain so credited in the
16 event he or she transfers his or her place of employment from one (1) school district
17 to another within the state or to the Kentucky Department of Education or transfers
18 from the Department of Education to a school district.

19 (5) Accumulated days of sick leave shall be granted to a teacher or employee if, prior to
20 the opening day of the school year, an affidavit or a certificate of a physician is
21 presented to the district board of education, stating that the teacher or employee is
22 unable to commence his or her duties on the opening day of the school year, but will
23 be able to assume his or her duties within a period of time that the board determines
24 to be reasonable.

25 (6) Any school teacher or employee may repurchase previously used sick leave days
26 with the concurrence of the local school board by paying to the district an amount
27 equal to the total of all costs associated with the used sick leave.

1 (7) A district board of education may adopt a plan for a sick leave bank. The plan may
 2 include limitations upon the number of days a teacher or employee may annually
 3 contribute to the bank and limitations upon the number of days a teacher or
 4 employee may annually draw from the bank. Only those teachers or employees who
 5 contribute to the bank may draw upon the bank. Days contributed will be deducted
 6 from the days available to the contributing teacher or employee. The sick leave bank
 7 shall be administered in accordance with a policy adopted by the board of
 8 education.

9 (8) (a) A district board of education shall establish a sick leave donation program to
 10 permit teachers or employees to voluntarily contribute sick leave to teachers
 11 or employees in the same school district who are in need of an extended
 12 absence from school. A teacher or employee who has accrued more than
 13 fifteen (15) days' sick leave may request the board of education to transfer a
 14 designated amount of sick leave to another teacher or employee who is
 15 authorized to receive the sick leave donated. A teacher or employee may not
 16 request an amount of sick leave be donated that reduces his or her sick leave
 17 balance to less than fifteen (15) days.

18 (b) A teacher or employee may receive donations of sick leave if:

- 19 1. a. The teacher or employee or a member of his or her immediate
 20 family suffers from a medically certified illness, injury,
 21 impairment, or physical or mental condition that has caused or is
 22 likely to cause the teacher or employee to be absent for at least ten
 23 (10) days; or
- 24 b. The teacher or employee suffers from a catastrophic loss to his or
 25 her personal or real property, due to either a natural disaster or fire,
 26 that either has caused or will likely cause the employee to be
 27 absent for at least ten (10) consecutive working days;

- 1 2. The teacher's or employee's need for the absence and use of leave are
- 2 certified by a licensed physician for leave requested under subparagraph
- 3 1.a. of this subsection;
- 4 3. The teacher or employee has exhausted his or her accumulated sick
- 5 leave, personal leave, and any other leave granted by the school district;
- 6 and
- 7 4. The teacher or employee has complied with the school district's policies
- 8 governing the use of sick leave.
- 9 (c) While a teacher or employee is on sick leave provided by this section, he or
- 10 she shall be considered a school district employee, and his or her salary,
- 11 wages, and other employee benefits shall not be affected.
- 12 (d) Any sick leave that remains unused, is not needed by a teacher or employee,
- 13 and will not be needed in the future shall be returned to the teacher or
- 14 employee donating the sick leave.
- 15 (e) The board of education shall adopt policies and procedures necessary to
- 16 implement the sick leave donation program.
- 17 (9) A teacher or employee may use up to thirty (30) days of sick leave following the
- 18 birth or adoption of a child or children. Additional days may be used when the need
- 19 is verified by a physician's statement.
- 20 (10) (a) After July 1, 1982, a district board of education may compensate, at the time
- 21 of retirement or upon the death of a member in active contributing status at the
- 22 time of death who was eligible to retire by reason of service, an employee or a
- 23 teacher, or the estate of an employee or teacher, for each unused sick leave
- 24 day. The rate of compensation for each unused sick leave day shall be based
- 25 on a percentage of the daily salary rate calculated from the employee's or
- 26 teacher's last annual salary, not to exceed thirty percent (30%). Payment for
- 27 unused sick leave days shall be incorporated into the annual salary of the final

1 year of service for inclusion in the calculation off~~only~~ the employee's or
 2 teacher's~~initial~~ retirement allowance *only at the time of his or her initial*
 3 *retirement*, provided that the member makes the regular retirement
 4 contribution for members on the sick leave payment. The accumulation of
 5 these days includes unused sick leave days held by the employee or teacher at
 6 the time of implementation of the program.

7 (b) For a teacher or employee who begins employment with a local school district
 8 on or after July 1, 2008, the maximum amount of unused sick leave days a
 9 district board of education may recognize in calculating the payment of
 10 compensation to the teacher or employee under this subsection shall not
 11 exceed three hundred (300) days.

12 (11) Any statute to the contrary notwithstanding, employees and teachers who
 13 transferred from the Department of Education to a school district, from a school
 14 district to the Department of Education, or from one (1) school district to another
 15 school district after July 15, 1981, shall receive credit for any unused sick leave to
 16 which the employee or teacher was entitled on the date of transfer. This credit shall
 17 be for the purposes set forth in subsection (10) of this section.

18 (12) The death benefit provided in subsection (10) of this section may be cited as the
 19 Baughn Benefit.

20 ➔Section 3. KRS 161.220 is amended to read as follows:

21 As used in KRS 161.220 to 161.716 and 161.990:

- 22 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to
 23 161.716 and 161.990 for payment of allowances to members;
- 24 (2) "Retirement allowance" means the amount annually payable during the course of his
 25 natural life to a member who has been retired by reason of service;
- 26 (3) "Disability allowance" means the amount annually payable to a member retired by
 27 reason of disability;

- 1 (4) "Member" means the commissioner of education, deputy commissioners, associate
2 commissioners, and all division directors in the State Department of Education, and
3 any full-time teacher or professional occupying a position requiring certification or
4 graduation from a four (4) year college or university, as a condition of employment,
5 and who is employed by public boards, institutions, or agencies as follows:
- 6 (a) Local boards of education;
 - 7 (b) Eastern Kentucky University, Kentucky State University, Morehead State
8 University, Murray State University, Western Kentucky University, and any
9 community colleges established under the control of these universities;
 - 10 (c) State-operated secondary area vocational education or area technology centers,
11 Kentucky School for the Blind, and Kentucky School for the Deaf;
 - 12 (d) The Education Professional Standards Board, other public education agencies
13 as created by the General Assembly, and those members of the administrative
14 staff of the Teachers' Retirement System of the State of Kentucky whom the
15 board of trustees may designate by administrative regulation;
 - 16 (e) Regional cooperative organizations formed by local boards of education or
17 other public educational institutions listed in this subsection, for the purpose
18 of providing educational services to the participating organizations;
 - 19 (f) All full-time members of the staffs of the Kentucky Association of School
20 Administrators, Kentucky Education Association, Kentucky Vocational
21 Association, Kentucky High School Athletic Association, Kentucky Academic
22 Association, and the Kentucky School Boards Association who were members
23 of the Kentucky Teachers' Retirement System or were qualified for a position
24 covered by the system at the time of employment by the association in the
25 event that the board of directors of the respective association petitions to be
26 included. The board of trustees of the Kentucky Teachers' Retirement System
27 may designate by resolution whether part-time employees of the petitioning

1 association are to be included. The state shall make no contributions on
 2 account of these employees, either full-time or part-time. The association shall
 3 make the employer's contributions, including any contribution that is specified
 4 under KRS 161.550. The provisions of this paragraph shall be applicable to
 5 persons in the employ of the associations on or subsequent to July 1, 1972;

6 (g) Employees of the Council on Postsecondary Education who were employees
 7 of the Department for Adult Education and Literacy and who were members
 8 of the Kentucky Teachers' Retirement System at the time the department was
 9 transferred to the council pursuant to Executive Order 2003-600;

10 (h) The Office of Career and Technical Education, except that the executive
 11 director shall not be a member;

12 (i) The Office of Vocational Rehabilitation;

13 (j) The Kentucky Educational Collaborative for State Agency Children;

14 (k) The Governor's Scholars Program;

15 (l) Any person who is retired for service from the retirement system and is
 16 reemployed by an employer identified in this subsection in a position that the
 17 board of trustees deems to be a member;

18 (m) Employees of the former Cabinet for Workforce Development who are
 19 transferred to the Kentucky Community and Technical College System and
 20 who occupy positions covered by the Kentucky Teachers' Retirement System
 21 shall remain in the Teachers' Retirement System. New employees occupying
 22 these positions, as well as newly created positions qualifying for Teachers'
 23 Retirement System coverage that would have previously been included in the
 24 former Cabinet for Workforce Development, shall be members of the
 25 Teachers' Retirement System;

26 (n) Effective January 1, 1998, employees of state community colleges who are
 27 transferred to the Kentucky Community and Technical College System shall

1 continue to participate in federal old age, survivors, disability, and hospital
 2 insurance, and a retirement plan other than the Kentucky Teachers' Retirement
 3 System offered by Kentucky Community and Technical College System. New
 4 employees occupying positions in the Kentucky Community and Technical
 5 College System as referenced in KRS 164.5807(5) that would not have
 6 previously been included in the former Cabinet for Workforce Development,
 7 shall participate in federal old age, survivors, disability, and hospital insurance
 8 and have a choice at the time of employment of participating in a retirement
 9 plan provided by the Kentucky Community and Technical College System,
 10 including participation in the Kentucky Teachers' Retirement System, on the
 11 same basis as faculty of the state universities as provided in KRS 161.540 and
 12 161.620;

13 (o) Employees of the Office of General Counsel, the Office of Budget and
 14 Administrative Services, and the Office of Quality and Human Resources
 15 within the Office of the Secretary of the former Cabinet for Workforce
 16 Development and the commissioners of the former Department for Adult
 17 Education and Literacy and the former Department for Technical Education
 18 who were contributing to the Kentucky Teachers' Retirement System as of
 19 July 15, 2000; and

20 (p) Employees of the Kentucky Department of Education only who are graduates
 21 of a four (4) year college or university, notwithstanding a substitution clause
 22 within a job classification, and who are serving in a professional job
 23 classification~~[position]~~ as defined by the department.

24 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
 25 and became a member of the retirement system created by 1938 (1st Extra. Sess.)
 26 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
 27 after that date, and any teacher who was a member of a local teacher retirement

1 system in the public elementary or secondary schools of the state on or before July
 2 1, 1940, and continued to be a member of the system until he, with the membership
 3 of the local retirement system, became a member of the state Teachers' Retirement
 4 System or who becomes a member under the provisions of KRS 161.470(4);

5 (6) "New teacher" means any member not a present teacher;

6 (7) "Prior service" means the number of years during which the member was a teacher
 7 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior
 8 service shall be allowed or credited to any teacher;

9 (8) "Subsequent service" means the number of years during which the teacher is a
 10 member of the Teachers' Retirement System after July 1, 1941;

11 (9) "Final average salary" means the average of the five (5) highest annual salaries
 12 which the member has received for service in a covered position and on which the
 13 member has made contributions, or on which the public board, institution, or
 14 agency has picked-up member contributions pursuant to KRS 161.540(2), or the
 15 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
 16 which shall include picked-up member contributions. Additionally, the board of
 17 trustees may approve a final average salary based upon the average of the three (3)
 18 highest salaries for members who are at least fifty-five (55) years of age and have a
 19 minimum of twenty-seven (27) years of Kentucky service credit. However, if any of
 20 the five (5) or three (3) highest annual salaries used to calculate the final average
 21 salary was paid within the three (3) years immediately prior to the date of the
 22 member's retirement, the amount of salary to be included for each of those three (3)
 23 years for the purpose of calculating the final average salary shall be limited to the
 24 lesser of:

25 (a) The member's actual salary; or

26 (b) The member's annual salary that was used for retirement purposes during each
 27 of the prior three (3) years, plus a percentage increase equal to the percentage

1 increase received by all other members employed by the public board,
2 institution, or agency, or for members of school districts, the highest
3 percentage increase received by members on any one (1) rank and step of the
4 salary schedule of the school district. The increase shall be computed on the
5 salary that was used for retirement purposes.

6 This limitation shall not apply if the member receives an increase in salary in a
7 percentage exceeding that received by the other members, and this increase was
8 accompanied by a corresponding change in position or in length of employment.

9 This limitation shall also not apply to the payment to a member for accrued annual
10 leave if the individual becomes a member before July 1, 2008, or accrued sick leave
11 which is authorized by statute and which shall be included as part of a retiring
12 member's annual compensation for the member's last year of active service;

13 (10) "Annual compensation" means the total salary received by a member as
14 compensation for all services performed in employment covered by the retirement
15 system during a fiscal year. Annual compensation shall not include payment for any
16 benefit or salary adjustments made by the public board, institution, or agency to the
17 member or on behalf of the member which is not available as a benefit or salary
18 adjustment to other members employed by that public board, institution, or agency.
19 Annual compensation shall not include the salary supplement received by a member
20 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no
21 circumstances shall annual compensation include compensation that is earned by a
22 member while on assignment to an organization or agency that is not a public board,
23 institution, or agency listed in subsection (4) of this section. In the event that federal
24 law requires that a member continue membership in the retirement system even
25 though the member is on assignment to an organization or agency that is not a
26 public board, institution, or agency listed in subsection (4) of this section, the
27 member's annual compensation for retirement purposes shall be deemed to be the

1 annual compensation, as limited by subsection (9) of this section, last earned by the
2 member while still employed solely by and providing services directly to a public
3 board, institution, or agency listed in subsection (4) of this section. The board of
4 trustees shall determine if any benefit or salary adjustment qualifies as annual
5 compensation. For an individual who becomes a member on or after July 1, 2008,
6 annual compensation shall not include lump-sum payments upon termination of
7 employment for accumulated annual or compensatory leave;

8 (11) "Age of member" means the age attained on the first day of the month immediately
9 following the birthdate of the member. This definition is limited to retirement
10 eligibility and does not apply to tenure of members;

11 (12) "Employ," and derivatives thereof, means relationships under which an individual
12 provides services to an employer as an employee, as an independent contractor, as
13 an employee of a third party, or under any other arrangement as long as the services
14 provided to the employer are provided in a position that would otherwise be covered
15 by the Kentucky Teachers' Retirement System and as long as the services are being
16 provided to a public board, institution, or agency listed in subsection (4) of this
17 section;

18 (13) "Regular interest" means interest at three percent (3%) per annum, except for an
19 individual who becomes a member on or after July 1, 2008, "regular interest" means
20 interest at two and one-half percent (2.5%) per annum for purposes of crediting
21 interest to the teacher savings account or any other contributions made by the
22 employee that are refundable to the employee upon termination of employment;

23 (14) "Accumulated contributions" means the contributions of a member to the teachers'
24 savings fund, including picked-up member contributions as described in KRS
25 161.540(2), plus accrued regular interest;

26 (15) "Annuitant" means a person who receives a retirement allowance or a disability
27 allowance;

- 1 (16) "Local retirement system" means any teacher retirement or annuity system created
2 in any public school district in Kentucky in accordance with the laws of Kentucky;
- 3 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
4 retirement plan year is concurrent with this fiscal year. A contract for a member
5 employed by a local board of education may not exceed two hundred sixty-one
6 (261) days in the fiscal year;
- 7 (18) "Public schools" means the schools and other institutions mentioned in subsection
8 (4) of this section;
- 9 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
10 receiving, at the time of death of the member, at least one-half (1/2) of the support
11 from the member for maintenance, including board, lodging, medical care, and
12 related costs;
- 13 (20) "Active contributing member" means a member currently making contributions to
14 the Teachers' Retirement System, who made contributions in the next preceding
15 fiscal year, for whom picked-up member contributions are currently being made, or
16 for whom these contributions were made in the next preceding fiscal year;
- 17 (21) "Full-time" means employment in a position that requires services on a continuing
18 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year
19 basis;
- 20 (22) "Full actuarial cost," when used to determine the payment that a member must pay
21 for service credit means the actuarial value of all costs associated with the
22 enhancement of a member's benefits or eligibility for benefit enhancements,
23 including health insurance supplement payments made by the retirement system.
24 The actuary for the retirement system shall determine the full actuarial value costs
25 and actuarial cost factor tables as provided in KRS 161.400; and
- 26 (23) "Last annual compensation" means the annual compensation, as defined by
27 subsection (10) of this section and as limited by subsection (9) of this section,

1 earned by the member during the most recent period of contributing service, either
2 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
3 full year of service credit in the Kentucky Teachers' Retirement System, and which
4 compensation is used in calculating the member's initial retirement allowance,
5 excluding bonuses, retirement incentives, payments for accumulated sick, annual,
6 personal and compensatory leave, and any other lump-sum payment. For an
7 individual who becomes a member on or after July 1, 2008, payments for annual or
8 compensatory leave shall not be included in determining the member's last annual
9 compensation.

10 ➔Section 4. KRS 161.340 is amended to read as follows:

- 11 (1) The board of trustees shall elect from its membership a chairperson and a vice
12 chairperson on an annual basis as prescribed by the administrative regulations of the
13 board of trustees. The board of trustees shall employ an executive secretary by
14 means of a contract not to exceed a period of four (4) years and fix the
15 compensation and other terms of employment for this position without limitation of
16 the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive
17 secretary shall be the chief administrative officer of the board. The executive
18 secretary, at the time of employment, shall be a graduate of a four (4) year college
19 or university, and shall possess qualifications as the board of trustees may require.
20 The executive secretary shall not have held by appointment or election an elective
21 public office within the five (5) year period next preceding the date of employment.
- 22 (2) The board shall employ clerical, administrative, and other personnel as are required
23 to transact the business of the retirement system. The compensation of all persons
24 employed by the board shall be paid at the rates and in amounts as the board
25 approves. Anything in the Kentucky Revised Statutes to the contrary
26 notwithstanding, the power over and the control of determining and maintaining an
27 adequate complement of employees in the system shall be under the exclusive

1 jurisdiction of the board of trustees.

2 (3) The board shall contract for actuarial, auditing, legal, medical, investment
3 counseling, and other professional or technical services, and commodities, as are
4 required to carry out the obligations of the board in accordance with the provisions
5 of this chapter without limitations, including KRS Chapters 12, 13B, 45, 45A, 56,
6 and 57, and shall provide for legal counsel and other legal services as may be
7 required in defense of trustees, officers, and employees of the system who may be
8 subjected to civil action arising from the performance of their legally assigned
9 duties if counsel and services are not provided by the Attorney General.

10 (4) The board shall require the trustees, executive secretary, and employees it
11 determines proper to execute bonds for the faithful performance of their duties
12 notwithstanding the limitations of KRS Chapter 62.

13 (5) The board of trustees may expend funds from the expense fund as necessary to
14 insure the trustees, employees, and officials of the Teachers' Retirement System
15 against any liability arising out of an act or omission committed in the scope and
16 course of performing legal duties.

17 (6) Notwithstanding any statute to the contrary, employees shall not be considered
18 legislative agents as defined in KRS 6.611.

19 (7) Notwithstanding any statute to the contrary, the executive branch of government
20 shall accept from the Kentucky Teachers' Retirement System all accrued annual and
21 sick leave balances and service credits of employees leaving the Kentucky Teachers'
22 Retirement System and accepting appointments within the executive branch. These
23 leave balances shall be attested to by the Kentucky Teachers' Retirement System
24 and shall not exceed those limits established by statute or administrative regulation
25 for employees of the executive branch.

26 ➔Section 5. KRS 161.480 is amended to read as follows:

27 Each person, upon becoming a member of the retirement system, shall file a detailed

1 statement as required by the board of trustees and shall designate a primary beneficiary or
 2 two (2) or more cobeneficiaries to receive any benefits accruing from the death of the
 3 member. A contingent beneficiary may be designated in addition to the primary
 4 beneficiary or cobeneficiaries. The member may name more than one (1) contingent
 5 beneficiary. Any beneficiary designation made by the member, including the estate
 6 should the estate become the beneficiary by default, shall remain in effect until changed
 7 by the member on forms prescribed by the Kentucky Teachers' Retirement System, except
 8 in the event of subsequent marriage or divorce. Subsequent marriage by the member shall
 9 void the primary beneficiary and any cobeneficiary designation, even that of a trust, and
 10 the spouse of the member at death shall be considered as the primary beneficiary, unless
 11 the member subsequent to marriage designates another beneficiary. A final divorce decree
 12 shall terminate an ex-spouse's status as either primary beneficiary, cobeneficiary, or
 13 contingent beneficiary, unless subsequent to divorce the member redesignates the former
 14 spouse as primary beneficiary, cobeneficiary, or contingent beneficiary. To the extent
 15 permitted by the Internal Revenue Code, a trust may be designated as beneficiary for
 16 receipt of a member's contributions to the retirement system as provided under KRS
 17 161.470(7). A final divorce decree shall not terminate the designation of a trust as
 18 beneficiary regardless of who is designated as beneficiary of the trust. In the event that a
 19 member fails to designate a beneficiary, or all designated beneficiaries predecease the
 20 member, the member's estate shall be deemed to be the beneficiary. Members may
 21 designate as beneficiaries only presently identifiable and existing individuals, or trusts
 22 where otherwise permitted, without contingency instructions, on forms prescribed by the
 23 retirement system. The provisions of this section shall be retroactive as they relate to
 24 election of beneficiaries by members still in active status on the effective date of this
 25 section. The provisions of this section shall not apply to any account from which a
 26 member is drawing a retirement allowance or to the life insurance benefit available under
 27 KRS 161.655.

➔Section 6. KRS 161.540 is amended to read as follows:

(1) (a) Effective July 1, 1988, each individual who becomes a member before July 1, 2008, shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university employees who participate in the Kentucky Teachers' Retirement System shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation.

(b) Each individual who becomes a member on or after July 1, 2008, shall contribute to the retirement system ten and eight hundred fifty-five thousandths percent (10.855%) of annual compensation, except that university employees who participate in the Kentucky Teachers' Retirement System~~[faculty members]~~ shall contribute nine and three hundred seventy-five thousandths percent (9.375%) of annual compensation.

(c) Payments authorized by statute that are made to retiring members, who became members of the system before July 1, 2008, for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

(2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

➔Section 7. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in paragraphs (a), (b), and (c) of this subsection are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, 2010:

23	(a) Cost-of-Living 2010-2011 [2008-2009]	Each Succeeding Fiscal Year
24	Allowance	
25	1994-1996	[\$6,142,000 \$6,142,000 through 2010-2011]
26	1996-1998	\$4,459,000
		[\$4,459,000 through 2010-2011]

1	1998-2000	\$15,333,900	\$15,333,900 through 2012-2013
2			\$7,938,600 in 2013-2014
3			
4	2000-2002	\$12,511,400	\$12,511,400 through 2014-2015
5			and
6			\$7,227,700 in 2015-2016
7	2002-2004	\$21,405,700	
8			\$21,405,700 through 2021-2022
9			and
10			\$11,204,100 in 2022-2023
11	2004-2006	\$15,413,700	\$15,413,700 through 2023-2024
12			and
13			\$7,421,400 in 2024-2025
14	2006-2008	\$15,730,200	\$15,730,200 through 2025-2026
15			and
16			\$7,104,600 in 2026-2027;
17	(b) Minimum Value 2010-2011 [2008-2009]		Each Succeeding Fiscal Year
18	Annuities		
19			
20	{1994-1996 ———— \$2,126,000}		
21	2002-2004	\$3,375,900	
22			\$3,375,900 through 2016-2017
23			and
24			\$2,027,800 in 2017-2018; and

1	(c)	Sick Leave 2010-2011 [2008-2009]	Each Succeeding Fiscal Year
2		Allowance	
3		1998-2000 \$4,660,300	\$4,660,300 through 2012-2013
4			and
5			\$2,425,900 in 2013-2014
6		2000-2002 \$6,167,100	\$6,167,100 through 2014-2015
7			and
8			\$3,579,100 in 2015-2016
9		2002-2004 \$5,337,000	\$5,337,000 through 2021-2022
10			and
11			\$3,022,800 in 2022-2023
12		2004-2006 \$5,480,300	\$5,480,300 through 2023-2024
13			and
14			\$2,558,700
15			in 2024-2025
16		2006-2008 \$5,814,400 [\$7,232,400]	\$5,814,400 [\$7,232,400] through 2025-2026
17			and
18			\$3,499,200 [\$4,917,200] in 2026-2027
19		2008-2010 \$8,969,000 [\$5,684,000]	\$8,969,000 [\$11,965,300] through 2027-2028
20			and
21			\$6,281,300 in 2028-2029.
22		<u>2010-2012</u> <u>\$6,516,600</u>	<u>\$13,674,800 through 2029-2030</u>
23			<u>and</u>
24			<u>\$7,158,200 in 2030-2031</u>

- (2) The cost of providing the transitional funding for the state medical insurance fund stabilization contribution as provided by KRS 160.550(2) may be funded by annual appropriations from the state on an amortized basis. The schedule in this subsection is the annual appropriation which shall be made by the state in the respective fiscal years or biennium prior to July 1, 2010~~[2008]~~:

Amortization of <u>2010-2011</u> [2008-2009]		Each
Succeeding Fiscal Year		
Transitional Funding		
2004-2006	\$13,325,100	\$13,325,100 through 2014-2015
		and
		\$9,075,500 in 2015-2016
2006-2008	<u>\$28,487,400</u> [\$28,438,200]	<u>\$28,487,400</u> [\$28,438,200]
		through 2016-2017
		and
		\$18,280,000 in 2017-2018
<u>2008-2010</u>	<u>\$36,554,100</u>	<u>\$36,554,100 through 2018-2019</u>
		<u>and</u>
		<u>\$18,266,100 in 2019-2020</u>
<u>Amortization of 2010-2011</u>		<u>Each Succeeding Fiscal Year</u>
<u>Medical Subsidy</u>		
<u>2008-2010</u>	<u>\$2,574,100</u>	<u>\$2,574,100 through 2018-2019</u>
		<u>and</u>
		<u>\$1,345,200 in 2019-2020</u>

- (3) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	\$34,689,893
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1 1990-1992 \$68,107,473

2 1992-1994 \$15,749,976

3 ➔Section 8. KRS 161.585 is amended to read as follows:

4 (1) For purposes of this section, the term "records" shall include retirement
 5 estimates, affidavits and other documents prepared by the Kentucky Teachers'
 6 Retirement system in response to information requested in a lawful subpoena or
 7 order issued by a court of law.

8 (2) Each member's account shall be administered in a confidential manner and specific
 9 data regarding a member shall not be released for publication unless authorized by
 10 the member; however, the board of trustees may release member account
 11 information to the employer or to other state and federal agencies as it deems
 12 necessary or in response to a lawful subpoena or order issued by a court of law.

13 ~~(3)~~(2) Medical records which are included in a member's file maintained by the
 14 Teachers' Retirement System are confidential and shall not be released unless
 15 authorized by the member in writing or as otherwise provided by law or in response
 16 to a lawful subpoena or order issued by a court of law.

17 (4) (a) When a subpoena is served upon any employee of the Kentucky Teachers'
 18 Retirement System requiring the production of any data, information or
 19 records, it is sufficient if the employee of the Kentucky Teachers'
 20 Retirement System charged with the responsibility of being custodian of the
 21 original, or his or her designated staff, delivers within five (5) working days
 22 by certified mail or by personal delivery to the person specified in the
 23 subpoena either of the following:

24 1. Legible and durable copies of records certified by the employee or
 25 designated staff; or

26 2. An affidavit stating the information required by the subpoena.

27 (b) The production of documents or an affidavit shall be in lieu of any personal

testimony of any employee of the Kentucky Teachers' Retirement System
unless, after the production of documents or affidavit, a separate subpoena
is served upon the retirement system specifically directing the testimony of
an employee of the retirement system. When a subpoena is served on any
employee of the retirement system requiring the employee to give testimony
or produce records for any purpose, in the absence of a court order
requiring the testimony of or production of documents by a specific
employee, the systems may designate an employee to give testimony or
produce documents upon the matter referred to in the subpoena. The board
of trustees may promulgate an administrative regulation for the recovery of
reasonable travel and administrative expenses for those occasions when an
employee of the retirement system is required to travel from his or her home
or office to provide testimony or records. Recoverable expenses may include
the wages, salary, and overtime paid to the employee by the retirement
system for the period of time that the employee is away from the office. The
cost of these expenses shall be borne by the party issuing the subpoena
compelling the employee's travel. The board of trustees may also
promulgate an administrative regulation establishing a reasonable fee for
the copying, compiling and mailing of requested records.

(5) The certification shall be signed before a notary public by the employee and shall
include the full name of the member, the member identification number assigned
to the member by the retirement system, and a legend substantially to the
following effect: "The records are true and complete reproductions of the
original, microfiched, or electronically stored records which are housed in the
retirement system's office. This certification is given in lieu of the undersigned's
personal appearance."

(6) When an affidavit or copies of records are personally delivered, a receipt shall be

1 presented to the person receiving the records for his or her signature and shall be
 2 immediately signed and returned to the person delivering the records. When an
 3 affidavit or copies of records are sent via certified mail, the receipt used by the
 4 postal authorities shall be sufficient to prove receipt of the affidavit or copies of
 5 records.

6 (7) When the affidavit or copies of records are delivered to a party for use in
 7 deposition they shall, after termination of the deposition, be delivered personally
 8 or by certified mail to the clerk of the court or other body before which the action
 9 or proceeding is pending.

10 (8) Upon completion of delivery by the retirement system of copies of records by their
 11 deposit in the mail or by their personal delivery to the requesting party, the
 12 retirement system shall cease to have any responsibility or liability for the records
 13 and their continued maintenance in a confidential manner.

14 (9) Records of the Kentucky Teachers' Retirement System that are susceptible to
 15 reproduction may be proved as to foundation, identity, and authenticity without
 16 preliminary testimony, by use of legible and durable copies, certified in
 17 accordance with the provisions of this section.

18 (10) The provisions of this section shall not be construed to prohibit the Kentucky
 19 Teachers' Retirement System from asserting any exemption, exception or relief
 20 provided under the Kentucky Rules of Civil Procedure or other applicable law.

21 ➔Section 9. KRS 161.605 is amended to read as follows:

22 Any member retired by reason of service may return to work in a position covered by the
 23 Kentucky Teachers' Retirement System and continue to receive his or her retirement
 24 allowance under the following conditions:

25 (1) Any member who is retired with thirty (30) or more years of service may return to
 26 work in a full-time or a part-time position covered by the Kentucky Teachers'
 27 Retirement System and earn up to a maximum of seventy-five percent (75%) of the

1 member's last annual compensation measured on a daily rate to be determined by
2 the board of trustees. For purposes of determining whether the salary of a member
3 returning to work is seventy-five percent (75%) or less of the member's last annual
4 compensation, all remuneration paid and benefits provided to the member, on an
5 actual dollar or fair market value basis as determined by the retirement system, shall
6 be considered. Members who were retired on or before June 30, 2002, shall be
7 entitled to return to work under the provisions of this section as if they had retired
8 with thirty (30) years of service. Nonqualified service credit purchased under the
9 provisions of KRS 161.5465 or elsewhere with any state-administered retirement
10 system shall not be used to meet the thirty (30) year requirement set forth in this
11 subsection. Out-of state teaching service provided in public schools for kindergarten
12 through grade twelve (12) may count toward the thirty (30) year requirement set
13 forth in this subsection even if it is not purchased as service credit, if the member
14 obtains from his or her out-of-state employer certification of this service on forms
15 prescribed by the retirement system;

16 (2) Any member who is retired with less than thirty (30) years of service after June 30,
17 2002, may return to work in a full-time or part-time position covered by the
18 Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five
19 percent (65%) of the member's last annual compensation measured on a daily rate
20 to be determined by the board of trustees. For purposes of determining whether the
21 salary of a member returning to work is sixty-five percent (65%) or less of the
22 member's last annual compensation, all remuneration paid and benefits provided to
23 the member, on an actual dollar or fair market value basis as determined by the
24 retirement system, shall be considered;

25 (3) Reemployment of a retired member under subsection (1) or (2) of this section in a
26 full-time teaching or nonteaching position in a local school district shall be
27 permitted only if the employer certifies to the Kentucky Teachers' Retirement

1 System that there are no other qualified applicants available to fill the teaching or
2 nonteaching position. The employer may use any source considered reliable
3 including but not limited to data provided by the Education Professional Standards
4 Board and the Department of Education to determine whether other qualified
5 applicants are available to fill the teaching or nonteaching position. The Kentucky
6 Board of Education shall promulgate administrative regulations to establish
7 procedures to determine whether other qualified applicants are available to fill a
8 teaching or nonteaching position and, if not, for filling the position with a retired
9 member who will then be permitted to return to work in that position under
10 subsection (1) or (2) of this section. The administrative regulations shall assure that
11 a retired member shall not be hired in a teaching or nonteaching position by a local
12 school district until the superintendent of the school district assures the Kentucky
13 Teachers' Retirement System that every reasonable effort has been made to recruit
14 other qualified applicants for the position on an annual basis;

- 15 (4) Under this section, an employer may employ full-time a number of retired members
16 not to exceed three percent (3%) of the membership actively employed full-time by
17 that employer. The board of trustees may reduce this three percent (3%) cap upon
18 recommendation of the retirement system's actuary if a reduction is necessary to
19 maintain the actuarial soundness of the retirement system. The board of trustees
20 may increase the three percent (3%) cap upon a determination that an increase is
21 warranted to help address a shortage in the number of available teachers and upon
22 the determination of the retirement system's actuary that the proposed cap increase
23 allows the actuarial soundness of the retirement system to be maintained. For
24 purposes of this subsection, "full-time" means the same as defined by KRS
25 161.220(21). A local school district may exceed the quota established by this
26 subsection by making an annual written request to the Kentucky Department of
27 Education which the department may approve on a year-by-year basis if the

1 statewide quota has not been met. A district's written request to exceed its quota
2 shall be submitted no sooner than two (2) weeks after the start of the school year;

3 (5) A member returning to work in a full-time or part-time position under subsection
4 (1) or (2) of this section will contribute to an account with the retirement system
5 that will be administered independently from and with no reciprocal impact with the
6 member's original retirement account, or any other account from which the member
7 is eligible to draw a retirement allowance. A member returning to work under
8 subsection (1) or (2) of this section shall make contributions to the retirement
9 system at the rate provided under KRS 161.540. The new account shall
10 independently meet the five (5) year vesting requirement as well as all other
11 conditions set forth in KRS 161.600(1) before any retirement allowance is payable
12 from this account. The retirement allowance accruing under this new account shall
13 be calculated pursuant to KRS 161.620(1)(b). This new account shall not entitle the
14 member to a duplication of the benefits offered under KRS 161.620(7) or 161.675,
15 nor shall this new account provide the benefits offered by KRS 161.520, 161.525,
16 161.620(3), 161.655, 161.661, or 161.663. A member returning to work under
17 subsection (1) or (2) of this section shall waive his or her medical insurance with
18 the Kentucky Teachers' Retirement System during the period of reemployment and
19 shall receive the medical insurance coverage that is generally provided by the
20 member's active employer to the other members of the retirement system that the
21 active employer employs. If medical insurance coverage is not available from the
22 employer, the Kentucky Teachers' Retirement System may provide coverage for the
23 member. A member returning to work under subsection (1) or (2) of this section
24 shall not be eligible to purchase service credit for any service provided after the
25 member's effective date of retirement but prior to the date that the member returns
26 to work. A member returning to work under subsection (1) or (2) of this section
27 shall not be eligible to purchase service credit that the member would have

1 otherwise been eligible to purchase prior to the member's initial retirement. A
 2 member who returns to work under subsection (1) or (2) of this section, or in the
 3 event of the death of the member, the member's estate or applicably designated
 4 beneficiary, shall be entitled, within ninety (90) days of the posting of the annual
 5 report submitted by the employer, to a refund of contributions as permitted and
 6 limited by KRS 161.470;

7 (6) The board of trustees may annually, on July 1, adjust the current daily rate of a
 8 member's last annual compensation, for each full twelve (12) month period that has
 9 elapsed subsequent to the member earning his or her last annual compensation, by
 10 the percentage increase in the annual average of the consumer price index for all
 11 urban consumers for the calendar year preceding the adjustment as published by the
 12 Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each
 13 annual adjustment shall become part of the member's daily rate base. Failure to
 14 comply with the salary limitations set forth in subsections (1) and (2) of this section
 15 as may be adjusted by this subsection shall result in a reduction of the member's
 16 retirement allowance or any other benefit to which the member would otherwise be
 17 entitled on a dollar-for-dollar basis for each dollar that the member exceeds these
 18 salary limitations. Notwithstanding any other provision of law to the contrary, a
 19 member retiring from a local school district who returns to work for a local school
 20 district under subsection (1) or (2) of this section shall be entitled, without any
 21 reduction to his or her retirement allowance or any other retirement benefit, to earn
 22 a minimum amount equal to one hundred seventy dollars (\$170) per day~~[the base~~
 23 ~~contract salary for a beginning Rank III teacher on the certified teachers' salary~~
 24 ~~schedule effective at the school district for which the retiree returns to work];~~

25 (7) (a) A retired member returning to work under subsection (1) or (2) of this section
 26 shall have separated from service for a period of at least one (1) year if
 27 returning to work for the same employer on a full-time basis, and at least three

1 (3) months if returning to work for a different employer on a full-time basis. A
2 retired member returning to work under subsection (1) or (2) of this section on
3 a part-time basis shall have separated from service for a period of at least three
4 (3) months before returning to work for any employer.

5 (b) As an alternative to the separation-from-service requirements in paragraph (a)
6 of this subsection, a retired member who is returning to work for the same
7 employer in a full-time position under subsections (1) and (2) of this section
8 may elect a separation-from-service of not less than two (2) months followed
9 by a forfeiture of the retired member's retirement allowance on a month-to-
10 month basis for each month that the member has separated from service for
11 less than twelve (12) full months. A retired member returning to work for the
12 same employer in a part-time position, or for a different employer in a full-
13 time position, may elect an alternative separation-from-service requirement of
14 at least two (2) months followed by a forfeiture of the member's retirement
15 allowance for one (1) month. During the period that the member forfeits his or
16 her retirement allowance and thereafter, member and employer contributions
17 shall be made to the retirement system as a result of employment in any
18 position subject to membership in the retirement system. The member shall
19 contribute to an account with the retirement system subject to the conditions
20 set forth in subsection (5) of this section. For purposes of measuring the
21 separation-from-service requirements set forth throughout this section, a
22 member's separation-from-service begins on the first day following the last
23 day of paid employment for the member prior to retirement.

24 (c) Failure to comply with the separation-from-service requirements in this
25 subsection voids a member's retirement and the member shall be required to
26 return all the retirement benefits he or she received, with interest, for the
27 period of time that the member returned to work without a sufficient

1 separation from service;

2 (8) (a) Effective July 1, 2004, local school districts may employ retired members in
3 full-time or part-time teaching or administrative positions without limitation
4 on the compensation of the retired members that is otherwise required by
5 subsections (1) and (2) of this section. Under provisions of this subsection, a
6 local school district may only employ retired members to fill critical shortage
7 positions for which there are no other qualified applicants as determined by
8 the local superintendent. The number of retired members that a local school
9 district may employ under this subsection shall be no more than two (2)
10 members per local school district or one percent (1%) of the total active
11 members employed by the local school district on a full-time basis as defined
12 under KRS 161.220(21), whichever number is greater. Retired members
13 returning to work under this subsection shall be subject to the separation-
14 from-service requirements set forth in subsection (7) of this section. Retired
15 members returning to work under this subsection shall waive their medical
16 insurance coverage with the retirement system during their period of
17 reemployment and receive medical insurance coverage that is offered to other
18 full-time members employed by the local school district. Retired members
19 returning to work under this subsection shall contribute to an account subject
20 to the conditions set forth in subsection (5) of this section. Retired members
21 returning to work under this subsection shall make contributions to the
22 retirement system at the rate provided under KRS 161.540. The employer
23 shall make contributions at the rate provided under KRS 161.550. Local
24 school districts shall make annual payments to the retirement system on the
25 compensation paid to the reemployed retirees at the rates determined by the
26 retirement system's actuary that reflect any accrued liability resulting from the
27 reemployment of these members.

1 (b) The Department of Education may employ retired members in full-time or
 2 part-time teaching or nonteaching positions without the limitations on
 3 compensation otherwise required by subsections (1) and (2) of this section to
 4 fill critical shortage areas in the schools it operates, including the Kentucky
 5 School for the Blind, the Kentucky School for the Deaf, and the Kentucky
 6 Virtual High School, and to serve on~~[scholastic]~~ audit teams~~[, and to provide~~
 7 ~~technical assistance to schools and districts required under federal law]~~. The
 8 department shall be subject to the same requirements as local school districts
 9 as provided in paragraph (a) of this subsection, except the Kentucky Teachers'
 10 Retirement System shall determine the maximum number of employees that
 11 may be employed under this paragraph;

12 (9) The return to work limitations set forth in this section shall apply to retired
 13 members who are returning to work in the same position from which they retired, or
 14 a position substantially similar to the one from which they retired, or a position
 15 described in KRS 161.046 or any position listed in KRS 161.220(4) which requires
 16 membership in the retirement system. Positions which generally require certification
 17 or graduation from a four (4) year college or university as a condition of
 18 employment which are created, or changed to remove the position from coverage
 19 under KRS 161.220(4) are also subject to the return to work limitations set forth in
 20 this section. The board of trustees shall determine whether employment in a
 21 nonteaching position is subject to this subsection;

22 (10) The provisions of subsections (1) to (8) of this section are not subject to KRS
 23 161.714;

24 (11) Any member retired by reason of service may waive his or her annuity and return to
 25 full-time employment in a position covered by the Kentucky Teachers' Retirement
 26 System under the following conditions:

27 (a) The member shall receive no annuity payments while employed in a covered

1 position, shall waive his or her medical insurance coverage with the Kentucky
2 Teachers' Retirement System during the period of reemployment, and shall
3 receive the medical insurance coverage that is generally offered by the
4 member's active employer to the other members of the retirement system
5 employed by the active employer. The member's estate or, if there is a
6 beneficiary applicably designated by the member, then the beneficiary, shall
7 continue to be eligible for life insurance benefits as provided in KRS 161.655.
8 Service subsequent to retirement shall not be used to improve an annuity,
9 except as provided in paragraphs (b) and (c) of this subsection;

10 (b) Any member who waives regular annuity benefits and returns to teaching or
11 covered employment shall be entitled to make contributions on the salaries
12 received for this service and have his retirement annuity recalculated as
13 provided in the regular retirement formula in KRS 161.620(1), less any
14 applicable actuarial discount applied to the original retirement allowance due
15 to the election of a joint and last survivor option. Retirement option and
16 beneficiary designation on original retirement shall not be altered by
17 postretirement employment, and dependents and spouses of the members shall
18 not become eligible for benefits under KRS 161.520, 161.525, or 161.661
19 because of postretirement employment;

20 (c) When a member returns to full-time teaching or covered employment as
21 provided in subsection (b) of this section, the employer is required to withhold
22 and remit regular retirement contributions. The member must be employed
23 full-time for at least one (1) consecutive contract year to be eligible to
24 improve an annuity. The member shall be returned to the annuity rolls on July
25 1 following completion of the contract year or on the first day of the month
26 following the month of termination of service if full-time employment
27 exceeds one (1) consecutive contract year. Any discounts applied at the time

1 of the original retirement due to service or age may be reduced or eliminated
2 due to additional employment if full-time employment is for one (1)
3 consecutive contract year or longer; and

4 (d) A member retired by reason of service who has been employed the equivalent
5 of twenty-five (25) days or more during a school year under KRS 161.605
6 may waive the member's retirement annuity and return to regular employment
7 covered by the Kentucky Teachers' Retirement System during that school year
8 a maximum of one (1) time during any five (5) year period, beginning with
9 that school year;

10 (12) Retired members may be employed in a part-time teaching capacity by an agency
11 described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of twelve (12)
12 teaching hours in any one (1) fiscal year. Retired members may be employed for a
13 period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal
14 year in a part-time administrative or nonteaching capacity by an agency described in
15 KRS 161.220(4)(b) or (n) in a position that would otherwise be covered by the
16 retirement system. The return to work provisions set forth in subsections (1) to (8)
17 of this section shall not apply to retired members who return to work solely for an
18 agency described in KRS 161.220(4)(b) or (n). Calculation of the number of days
19 and teaching hours for part-time teaching, substitute teaching, or part-time
20 employment in a nonteaching capacity under this section shall not exceed the ratio
21 between a school year and the actual months of retirement for the member during
22 that school year. The board of trustees by administrative regulation may establish
23 fractional equivalents of a day of teaching service. Any member who exceeds the
24 twelve (12) hour or one hundred (100) day limitations of this subsection shall be
25 subject to having his or her retirement voided and be required to return all
26 retirement allowances and other benefits paid to the member or on the member's
27 behalf since the effective date of retirement. In lieu of voiding a member's

1 retirement, the system may reduce the member's retirement allowance or any other
 2 benefit to which the member would otherwise be entitled on a dollar-for-dollar basis
 3 for each dollar of compensation that the member earns in employment exceeding
 4 twelve (12) hours, one hundred (100) days, or any apportionment of the two (2)
 5 combined;

6 (13) When a retired member returns to employment in a part-time teaching capacity or in
 7 a nonteaching capacity as provided in subsection (12) of this section, the employer
 8 shall contribute annually to the retirement system on the compensation paid to the
 9 retired member at rates determined by the retirement system actuary that reflect
 10 accrued liability for retired members who return to work under subsection (12) of
 11 this section; and

12 (14) For retired members who return to work during any one (1) fiscal year in both a
 13 position described in KRS 161.220(4)(b) or (n) and in a position described under
 14 another provision under KRS 161.220(4), and for retired members who return to
 15 work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and
 16 an administrative or nonteaching capacity, the board of trustees shall adopt a
 17 methodology for a pro rata apportionment of days and hours that the retired member
 18 may work in each position.

19 ➔Section 10. KRS 161.620 is amended to read as follows:

20 (1) The retirement allowance, in the form of a life annuity with refundable balance, of a
 21 member retiring for service shall be calculated as follows:

22 (a) For retirements effective July 1, 1998, and thereafter, except as otherwise
 23 provided by this section, the annual allowance for each year of service shall be
 24 two percent (2%) of the final average salary for service performed prior to
 25 July 1, 1983, and two and one-half percent (2.5%) of the final average salary
 26 for service performed after July 1, 1983, for all members not employed by a
 27 state college or university. The annual retirement allowance for each year of

1 service performed by members of the Teachers' Retirement System who are
2 members under the provisions of KRS 161.220(4)(b) or (n) shall be two
3 percent (2%) of the final average salary. Actuarial discounts due to age or
4 service credit at retirement may be applied as provided in this section;

5 (b) For individuals who become members of the Kentucky Teachers' Retirement
6 System on or after July 1, 2002, and before July 1, 2008, except those persons
7 who become members under KRS 161.220(4)(b) or (n), and who upon
8 retirement have earned less than ten (10) full years of service credit, the
9 retirement allowance shall be two percent (2%) of the member's final average
10 salary for each year of service. For individuals who become members of the
11 Kentucky Teachers' Retirement System on or after July 1, 2002, and before
12 July 1, 2008, except those persons who become members under KRS
13 161.220(4)(b) or (n), and who upon retirement have earned at least ten (10)
14 full years of service credit, the annual allowance for each year of service shall
15 be two and one-half percent (2.5%) of the member's final average salary;

16 (c) The board of trustees may approve for members who initially retire on or after
17 July 1, 2004, and who become members before July 1, 2008, except those
18 persons who are members under KRS 161.220(4)(b) or (n), a retirement
19 allowance of three percent (3%) of the member's final average salary for each
20 year of service credit earned in excess of thirty (30) years. This three percent
21 (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor
22 provided for in paragraph (b) of this subsection for every year or fraction of a
23 year of service in excess of thirty (30) years. Upon approval of this three
24 percent (3%) retirement factor, the board of trustees may establish conditions
25 of eligibility regarding the type of service credit that will qualify for meeting
26 the requirements of this subsection. This subsection is optional with the board
27 of trustees and shall not be subject to KRS 161.714;

(d) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008, except those persons who become members under KRS 161.220(4)(b) or (n), the retirement allowance shall be:

1. a. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
- b. Two percent (2%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
- c. Two and three-tenths percent (2.3%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but no more than twenty-six (26) years of service at retirement; or
- d. Two and one-half percent (2.5%) of the member's final average salary for each year of service if the member has earned greater than twenty-six (26) but no more than thirty (30) years of service at retirement; and
2. Three percent (3%) of the member's final average salary for each year of service earned in excess of thirty (30) years of service at retirement subject to the same terms and conditions as set forth in paragraph (c) of this subsection;

(e) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008, who are members under KRS 161.220(4)(b) or (n), the retirement allowance shall be:

1. One and one-half percent (1.5%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;

- 1 2. One and seven-tenths percent (1.7%) of the member's final average
- 2 salary for each year of service if the member has earned greater than ten
- 3 (10) but no more than twenty (20) years of service at retirement;
- 4 3. One and eighty-five hundredths percent (1.85%) of the member's final
- 5 average salary for each year of service if the member has earned greater
- 6 than twenty (20) but less than twenty-seven (27) years of service at
- 7 retirement; or
- 8 4. Two percent (2%) of the member's final average salary for each year of
- 9 service if the member has earned twenty-seven (27) or more years of
- 10 service at retirement; and
- 11 (f) The retirement allowance of a member at retirement, as measured on a life
- 12 annuity, shall not exceed the member's last yearly salary or the member's final
- 13 average salary, whichever is the greater amount. For purposes of this section,
- 14 "yearly salary" means the compensation earned by a member during the most
- 15 recent period of contributing service, either consecutive or nonconsecutive,
- 16 preceding the member's effective retirement date and shall be subject to the
- 17 provisions of KRS 161.220(9) and (10).
- 18 (2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance
- 19 of each retired member and of each beneficiary of a retirement option shall be
- 20 increased in the amount of one and one-half percent (1.5%), provided the retired
- 21 member had been retired for at least the full twelve (12) months immediately
- 22 preceding the date that the increase is effective. In the event that the retired member
- 23 had been retired for less than the full twelve (12) months immediately preceding the
- 24 date that the increase is effective, then the increase shall be reduced on a pro rata
- 25 basis by each month that the retired member had not been retired for the full twelve
- 26 (12) months immediately preceding the effective date of the increase.
- 27 (3) Any member qualifying for retirement under a life annuity with refundable balance

1 shall be entitled to receive an annual allowance amounting to not less than four
2 hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty
3 dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the
4 member. These minimums shall apply to the retired members receiving annuity
5 payments and to those members retiring on or subsequent to the effective dates
6 listed in this subsection. This subsection and subsection (4) of this section shall not
7 apply to individuals who become members of the Kentucky Teachers' Retirement
8 System on or after July 1, 2008.

9 (4) The minimum retirement allowance provided in this section shall apply in the case
10 of members retired or retiring under an option other than a life annuity with
11 refundable balance in the same proportion to the benefits of the member and his
12 beneficiary or beneficiaries as provided in the duly-adopted option tables at the time
13 of the member's retirement.

14 (5) Effective July 1, 2008, the monthly allowance of each retired member and each
15 recipient of a retirement option of the retired member may be increased in an
16 amount not to exceed three and one-half percent (3.5%) of the monthly allowance in
17 effect the previous month, provided the retired member had been retired for at least
18 the full twelve (12) months immediately preceding the date that the increase is
19 effective. In the event that the retired member had been retired for less than the full
20 twelve (12) months immediately preceding the date that the increase is effective,
21 then the increase shall be reduced on a pro rata basis by each month that the retired
22 member had not been retired for the full twelve (12) months immediately preceding
23 the effective date of the increase. The level of increase provided for in this
24 subsection shall be determined by the funding provided in the 2008-2010 biennium
25 budget appropriation.

26 (6) Effective July 1, 2009, the monthly allowance of each retired member and each
27 recipient of a retirement option of the retired member may be increased in an

1 amount not to exceed seven-tenths of one percent (0.7%) of the monthly allowance
2 in effect the previous month, provided the retired member had been retired for at
3 least the full twelve (12) months immediately preceding the date that the increase is
4 effective. In the event that the retired member had been retired for less than the full
5 twelve (12) months immediately preceding the date that the increase is effective,
6 then the increase shall be reduced on a pro rata basis by each month that the retired
7 member had not been retired for the full twelve (12) months immediately preceding
8 the effective date of the increase. The level of increase provided for in this
9 subsection shall be determined by the funding provided in the 2008-2010 biennium
10 budget appropriation.

11 (7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be
12 payable for the benefit of an adult child of a member retired for service when the
13 child's mental or physical condition is sufficient to cause dependency on the
14 member at the time of retirement. Eligibility for this payment shall continue for the
15 life of the child or until the time the mental or physical condition creating the
16 dependency no longer exists or the child marries. Benefits under this subsection
17 shall apply to legally adopted survivors provided the proceedings for the adoption
18 were initiated at least one (1) year prior to the death of the member. The board of
19 trustees shall be the sole judge of eligibility or dependency and may require formal
20 application or information relating thereto.

21 (8) Members of the Teachers' Retirement System shall be subject to the annuity income
22 limitations imposed by Section 415 of the Internal Revenue Service Code.

23 (9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the
24 Internal Revenue Code shall not be used in determining a member's retirement
25 annuity. The limitation on compensation for eligible members shall not be less than
26 the amount which was allowed to be taken into account by the retirement system in
27 effect on July 1, 1993. For this purpose, an eligible member is an individual who

1 was a member of the retirement system before the first plan year beginning after
2 December 31, 1995.

3 ➔Section 11. KRS 161.630 is amended to read as follows:

4 (1) A member, upon retirement, shall receive a retirement allowance in the form of a
5 life annuity, with refundable balance, as provided in KRS 161.620, unless an
6 election is made before the effective date of retirement to receive actuarially
7 equivalent benefits under options which the board of trustees approves. No option
8 shall provide for a benefit with an actuarial value at the age of retirement greater
9 than that provided in KRS 161.620. This section does not apply to disability
10 allowances as provided in KRS 161.661(1).

11 (2) The retirement option chosen by a retiree at the time of service retirement shall
12 remain in force unless the retiree elects to make a change under the following
13 conditions:

14 (a) A divorce, annulment, or marriage dissolution following retirement shall, at
15 the election of the retiree, cancel any optional plan selected at retirement that
16 provides continuing benefits to a spousal beneficiary and return the retiree to a
17 single lifetime benefit equivalent as determined by the board; or

18 (b) Following marriage or remarriage, or the death of the designated beneficiary, a
19 retiree may elect a new optional plan of payment based on the actuarial
20 equivalent of a single lifetime benefit at the time of the election, as determined
21 by the board. The plan shall become effective the first of the month following
22 receipt of an application on a form approved by the board.

23 (3) Except as otherwise provided in this section, a beneficiary designation shall not be
24 changed after the effective date of retirement except for retirees who elect the life
25 annuity with refundable balance~~[-option]~~ or the predetermined years certain and life
26 thereafter option. A member may remove a beneficiary at any time, but shall not
27 designate a substitute beneficiary. If a member elects to remove a beneficiary, the

1 member's retirement allowance shall not change regardless of the retirement option
2 selected by the member, even if the removed beneficiary predeceases the member.

- 3 (4) A member who experiences a qualifying event under subsection (2) of this section
4 and who elects a new optional plan of payment shall make that election within sixty
5 (60) days of the qualifying event.

6 ➔Section 12. KRS 161.655 is amended to read as follows:

- 7 (1) Effective July 1, 2000, the Teachers' Retirement System shall:

8 (a) Provide a life insurance benefit in a minimum amount of five thousand dollars
9 (\$5,000) for its members who are retired for service or disability. This life
10 insurance benefit shall be payable upon the death of a member retired for
11 service or disability to the member's estate or to a party designated by the
12 member on a form prescribed by the retirement system; and

13 (b) Provide a life insurance benefit in a minimum amount of two thousand dollars
14 (\$2,000) for its active contributing members. This life insurance benefit shall
15 be payable upon the death of an active contributing member to the member's
16 estate or to a party designated by the member on a form prescribed by the
17 retirement system.

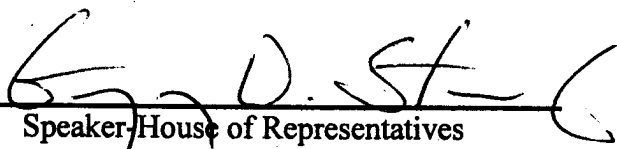
- 18 (2) The member may name one (1) primary and one (1) contingent beneficiary for
19 receipt of the life insurance benefit. To the extent permitted by the Internal Revenue
20 Code, a trust may be designated as beneficiary for receipt of the life insurance
21 benefit. Members may designate as beneficiaries only presently identifiable and
22 existing individuals, or trusts where otherwise permitted, without contingency
23 instructions, on forms prescribed by the retirement system. In the event that a
24 member fails to designate a beneficiary, or all designated beneficiaries predecease
25 the member, the member's estate shall be deemed to be the beneficiary. Any
26 beneficiary designation made by the member, including the estate should the estate
27 become the beneficiary by default, shall remain in effect until changed by the

1 member on forms prescribed by the retirement system, except in the event of
 2 subsequent marriage or divorce. *A valid marriage license shall terminate any*
 3 *previously designated beneficiary, even that of a trust, and establish the spouse as*
 4 *beneficiary unless, subsequent proof of the marriage, the member or retired*
 5 *member redesignates someone other than the new spouse as the beneficiary.* A
 6 final divorce decree shall terminate the beneficiary status of an ex-spouse unless,
 7 subsequent to divorce, the member redesignates the former spouse as a beneficiary.
 8 A final divorce decree shall not terminate the designation of a trust as beneficiary
 9 regardless of who is designated as beneficiary of the trust.

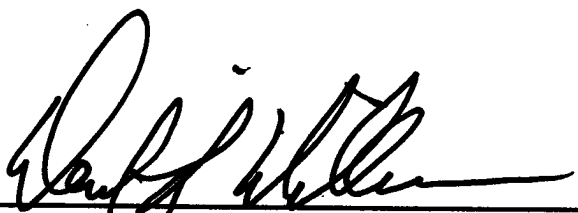
10 (3) Application for payment of life insurance proceeds shall be made to the Teachers'
 11 Retirement System together with acceptable evidence of death and eligibility. The
 12 reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and
 13 payment of proceeds by the life insurance benefit under this section.

14 (4) Suit or civil action shall not be required for the collection of the proceeds of the life
 15 insurance benefit provided for by this section, but nothing in this section shall
 16 prevent the maintenance of suit or civil action against the beneficiary or legal
 17 representative receiving the proceeds of the life insurance benefit.

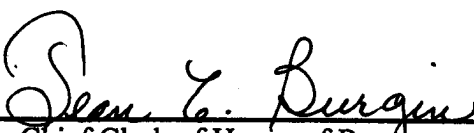
18 ➔Section 13. Whereas, retirement annuity adjustments are implemented at the
 19 beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect
 20 July 1, 2010.



Speaker House of Representatives



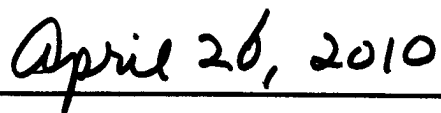
President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 

April 20, 2010